

1 RECORD OF ORAL HEARING  
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3 UNITED STATES PATENT AND TRADEMARK OFFICE  
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6 BEFORE THE BOARD OF PATENT APPEALS  
7 AND INTERFERENCES  
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10 *Ex parte* TORU MURATA  
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13 Appeal 2007-3469  
14 Application 09/933,017  
15 Technology Center 2600  
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18 Oral Hearing Held: November 8, 2007  
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22 Before ANITA PELLMAN GROSS, JEAN R. HOMERE, and  
23 JOHN A. JEFFERY, *Administrative Patent Judges*.  
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25 ON BEHALF OF THE APPELLANT:  
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32 The above-entitled matter came on for hearing on Thursday,  
33 November 8, 2007, commencing at 2:00 p.m., at the U.S. Patent and  
34 Trademark Office, 600 Dulany Street, 9th Floor, Alexandria, Virginia,  
35 before Jan Jablonsky, Notary Public.  
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PROCEEDINGS

1 JUDGE GROSS: Whenever you're ready. You have 20 minutes.

2 MR. BIRD: Thank you. May it please the Board, I'm John Bird, on  
3 behalf of Sughrue Mion, and NEC Display Solutions, the assignee of this  
4 patent application. And I'd like to just start with the invention of claim one.

5 And referring to Figure 4, we have this ethernet communication  
6 means, which is between a first image and voice display means three. And  
7 that is controlled by remote control means 37. And there is a personal  
8 computer provided with a second image and voice display means 13.

9 And I'd like to refer to the bottom part of the claim, and that says,  
10 "Wherein said ethernet communication means as used to transfer said  
11 display contents, said display control, and said communication control  
12 between those devices."

13 Claim seven is similar to claim one, except that it's not in  
14 means-plus-function language and uses an ethernet communication network.

15 So referring to the rejections of record, the primary reference asserted  
16 by the examiner is the Miyashita reference. And referring to Figure 4 of  
17 Miyashita, I just wanted to mention that there is a projector that is connected  
18 to a computer, and the projector receives control information from the  
19 computer through this RS-232C serial transmission line 50. However,  
20 applicant contends that the computational control means sends a video signal  
21 to the projector via a different input, and not the same RS-232C input.

22 The examiner appears to assert that both of these signals go over the  
23 same input. However, we believe that the examiner is looking at the figures  
24 incorrectly. And the examiner then alleges that it would be obvious to  
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1modify the dual input of this dual input system of Miyashita with the single  
2input of Yasukawa. And in this case, the examiner relies basically on this  
3website, which I have not been able to access. It's not in the record.

4 JUDGE HOMERE: Wasn't the examiner relying on Yasukawa for the  
5ethernet feature of the Internet connection?

6 MR. BIRD: He's relying on Yasukawa for the ethernet feature. That's  
7correct, Your Honor.

8 JUDGE HOMERE: Yes, but the point of the ethernet article that  
9you're referring to was a way for the examiner to explain how the RS-232  
10line operates, right?

11 MR. BIRD: Yes. He was using this as a reasonable rationale for  
12combining.

13 JUDGE HOMERE: Yes. And also, I think this point here, I mean, if  
14you examine the examiner's answer closely, the issue of whether the RS-232  
15actually teaches that the video signal goes through that, I think the examiner  
16considered that. So I think that point itself is settled in the examiner's  
17answer. So really, the question before us is whether the ethernet taught by  
18the secondary reference can be used in lieu of the RS-232. That's the  
19question.

20 MR. BIRD: And we would say that it's not obvious to use the  
21ethernet in place of this 232 and the second input of the primary referenced  
22Miyashita. And this website that the examiner refers to is not evidence of  
23what one of ordinary skill would have been aware of at the time of the  
24invention, which was filed in 2001 or 2000.

1 And therefore, it would be improper for the examiner to rely on this  
2for his rationale. And without this website analysis, the examiner's  
3statement is merely conclusory, where he's saying it would be just much  
4better to do this.

5 Even after the Supreme Court's KSR decision, there is a basic factual  
6finding of rationales that are required to support an obviousness finding.  
7However, in this case, the single input of Yasukawa is only applicable to  
8prerecorded image data stored on servers to a projector, and it's not  
9applicable to a communication means or a communication network that's  
10used to transfer display contents, display control, and also communication  
11control.

12 JUDGE HOMERE: But when we go back to Yasukawa, I mean, in  
13both the examiner's answer and the briefs filed, I mean, these two issues are  
14settled. In the figure that's depicted as Figure 3 of Yasukawa, the ethernet  
15line ultimately is to carry both video data and control data; isn't that correct?

16 MR. BIRD: I'm not going to comment on that.

17 JUDGE HOMERE: Well, that's what the brief said.

18 MR. BIRD: We believe that the combination of Yasukawa and  
19Miyashita just using the ethernet --

20 JUDGE HOMERE: Excuse me. What is the extent of what  
21Yasukawa teaches?

22 MR. BIRD: Yasukawa teaches this ethernet system.

23 JUDGE HOMERE: Okay. So what goes through there? Does it  
24carry the video line from the servers to the projector?

25 MR. BIRD: I'm not going to comment on that.

1 JUDGE JEFFERY: Counsel, let me do this.

2 MR. BIRD: Okay.

3 JUDGE JEFFERY: Let me direct your attention to column two of the  
4secondary reference. And when you bring it up, let me know. And  
5specifically, lines 57 through 60 of column two. I'll just go ahead and read it  
6aloud here. It basically discusses the method transferring the data that  
7includes the image data and the image controlling data from the at least one  
8specified server with which communication has been established to the  
9projector. So I think that excerpt sort of indicates that both image data and  
10control data ultimately get sent to the projector.

11 Now, the question, it seems to me, would be whether it would be  
12obvious, in light of that teaching, to essentially use a unified network-based  
13transmission system in lieu of RS-232C to video connectors.

14 MR. BIRD: Yes, well, our position is that the claim specifically talks  
15about this remote control means that captures display contents, and that this  
16ethernet communication means is used to transfer these display contents  
17from the remote control and the display control and the communication  
18control. And that would not have been obvious to use the Yasukawa system  
19to transfer those three elements.

20 JUDGE HOMERE: Oh, you're not asking Judge Jeffery's question.  
21He just read a portion to you from Yasukawa that allegedly teaches that the  
22ethernet line carries both the control signal and the video signal. And I think  
23the question was directed to you regarding what that particular portion  
24actually teaches. I mean, I'm sure that you got prepared for this case. Did

1you have any opportunity to review the reference in its entirety for its  
2teaching?

3 MR. BIRD: Well, we've reviewed the reference in its entirety, and I  
4have not seen anything that would show a specific use in the claimed  
5manner.

6 JUDGE JEFFERY: Let me make sure I understand. We basically  
7have two types of control data that's being claimed, right? We've got the  
8display control, and we have the communication control. Those are two  
9distinct control aspects, if you will. Signals.

10 MR. BIRD: Yes.

11 JUDGE JEFFERY: And then the contents is the third element. So  
12you're saying -- I mean, I think your position is, notwithstanding the  
13teaching of the secondary reference of transferring both control data and  
14image data to the projector through this ethernet-based thing, it wouldn't be  
15obvious to transmit two types of control signals -- that is to say, the display  
16control and the communication control -- in addition to the display contents  
17themselves. Is that it?

18 MR. BIRD: Yes, that is the applicant's position. Yes. Yes, sir, that  
19is. And we wanted to reiterate that this brief was filed before the KSR  
20decision came out. And now there are more rationales that the examiners  
21will typically rely on, but in this case we still don't see the proper rationale.

22 And with respect to, specifically, the teaching motivation or  
23suggestion test, we feel that the examiner's analysis is missing. And this  
24combination, in which the communication means is transferred to three  
25items -- the display contents, display control, and the communication

1control -- we'd say it's more than a predictable use of the prior elements,  
2which you'd find in KSR.

3 JUDGE JEFFERY: Well, counsel, let me ask you this. Going back to  
4the base reference, Figure 4, which is the key figure, as you indicated, shows  
5the RS-232 line 50 between the projector and the computer. I mean, if I  
6were to decide as an engineer that I wanted to network this particular  
7arrangement -- that is to say, I wanted multiple projectors and multiple  
8computers -- and I wanted to tie all this together via a network, wouldn't I  
9think to provide some sort of high bandwidth connectivities -- i.e., an  
10ethernet capability -- to connect these things up as communication?

11 MR. BIRD: Well, our position is that you would not have been  
12motivated to do that, and it would not have been obvious.

13 JUDGE JEFFERY: Okay.

14 JUDGE HOMERE: Are you familiar with the ethernet technology?  
15Do you know what an ethernet line does?

16 MR. BIRD: I'm familiar with the ethernet technology.

17 JUDGE HOMERE: Okay.

18 MR. BIRD: I'm not an expert in that technology area.

19 JUDGE HOMERE: I understand. Are you aware that the ethernet  
20itself, the ethernet line, is capable of carrying control data and video data?

21 MR. BIRD: I'm aware of that, yes. But for there to be a reason or  
22rationale to use it to carry our specific two types of control data, we don't see  
23any reason to do that.

1 JUDGE HOMERE: No, but you just said that you are aware that the  
2 ethernet line itself is capable of carrying both control data and video data; is  
3 that correct? That's what you just said, right?

4 MR. BIRD: Yes, I believe so, but -- I'll say I believe so.

5 JUDGE HOMERE: Okay. So, I mean, what is so special about this  
6 type of control data that the ethernet line would not be able to carry this  
7 specific type of control data you're referring to? Because, I mean, you  
8 admitted on the record here that while the ethernet line itself is capable of  
9 carrying both control data and video data, now on the other hand you're  
10 saying that, well, this specific type of control data as claimed here, well, you  
11 don't see any motivation, you don't see why anyone else would be motivated  
12 to carry that specific type of control data in the ethernet line. So what is so  
13 special about that particular control data, that ethernet line that, as you  
14 admitted, the artisan would know that it's capable of carrying control data  
15 and video data, would not be able to carry that?

16 MR. BIRD: Well, this is display control data that comes from the  
17 remote control through the -- that was used to control the projector itself. So  
18 just to use that control data on the second feature, the computer, we don't see  
19 that occurring.

20 JUDGE HOMERE: But why would the ethernet line not be able to  
21 carry that control data, when you say that it's capable of carrying control  
22 data generally, and video data? What's so special about this control data?

23 MR. BIRD: Well, we would say that one of ordinary skill would not  
24 have looked to that to do that, would not have looked to the ethernet  
25 technology to do that.



1 JUDGE HOMERE: Why not?

2 MR. BIRD: Why not? Because -- I'm not ready for that answer.

3Thank you.

4 JUDGE GROSS: Do you have anything else?

5 MR. BIRD: No. Thank you for your time. I appreciate it. Thank  
6you, Your Honors.

7 JUDGE GROSS: All right.

8 (Whereupon, at 2:13 p.m., the proceedings were concluded.)

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